

## REMARKS

Claims 41-63 and 65-85 are presently pending in the application. Claims 41, 62, 71, 78, and 85 are amended. Support for the amendments can be found in the originally filed specification. The Examiner is respectfully requested to reconsider and withdraw the rejection in view of the amendments and remarks contained herein.

### REJECTION UNDER 35 U.S.C. § 103

Claims 41-61 and 85 stand rejected under 35 U.S.C. § 103(a) as being obvious over Stern (U.S. Pat. No. 6,486,892) in view of Gerace (U.S. Pat. No. 5,848,396) and Eldering et al. (U.S. Pat. No. 6,486,892). This rejection is respectfully traversed.

The Examiner relies on Stern to teach an EPG residing on a cable box or similar endpoint device that personalizes the EPG contents for individual users by listing a subset of broadcast content and a subset of web cast content. Stern teaches toward personalizing a subset of each of the two types of content for different recipients employing a "content delivery system" in the form of an EPG that resides on an end point device. Therefore, Stern teaches away from identically modifying all broadcast content and all narrowcast content at a simulcast head end. Stern cannot be modified to accomplish this subject matter as doing so would thwart Stern's purpose of individualizing content for different broad cast and web-cast recipients. Nor does Stern disclose that the external source of the web cast content is the broadcast source, so there is no teaching, suggestion, or motivation that the all of broadcast content and all of the narrowcast content reported an individual recipient's end point device EPG can be identical.

The Examiner relies on Gerace to teach monitoring web cast content consumption by different types of users so that the web cast advertisement content can be adjusted for individual recipients. Stern and Gerace both teach toward personalizing content for different web cast recipients. Therefore, Stern and Gerace both teach away from identically modifying all broadcast content and all narrowcast content at a simulcast head end. Stern and Gerace cannot be modified to accomplish this subject matter as doing so would thwart Stern's and Garace's purposes of individualizing content for different web cast recipients.

The Examiner relies on Eldering et al. to teach that different nodes of a cable television network receive different content streams that are personalized for demographics of recipients at the different nodes. Stern, Gerace, and Eldering et al. all teach toward personalizing content for different web cast recipients. Therefore, Stern, Gerace, and Eldering et al., individually and/or in combination, teach away from identically modifying all broadcast content and all narrowcast content at a simulcast head end. Stern, Gerace, and Eldering et al. cannot be modified to accomplish this subject matter as doing so would thwart Stern's, Garace's, and Eldering et al.s' purposes of individualizing narrowcast content for different content recipients.

Applicants' claimed invention is directed toward identically modifying all broadcast content and all narrowcast content at a simulcast head end by monitoring response of the narrowcast recipients. For example, independent claim 41, especially as amended, recites, "a content delivery system at a simulcast head end at which the broadcast content and webcast content originate, said content delivery system having access to a plurality of programming and advertising content elements, said content

delivery system being controlled by said audience interaction monitor system, and said content delivery system being operative to automatically select programming and advertising content elements in real time and actively deliver said selected programming and advertising content elements to said first and second portions of said audience based on said at least one audience metric by adjusting, in an identical and uniform manner, programming and advertising content elements of all webcast content delivered over the addressable network for all recipients of the webcast content, and programming and advertising content elements of all broadcast content delivered over the channel-tuned broadcast spectrum for all recipients of the broadcast content.” Independent claim 85, especially as amended, recites similar subject matter. Thus, Stern, Gerace, and Eldering et al. teach away from subject matter recited in the independent claims. This subject matter is significant.

Accordingly, Applicants respectfully request the Examiner reconsider and withdraw the rejection of independent claims 41 and 85 under 35 U.S.C. § 103(a), along with rejection on these grounds of all claims dependent therefrom.

Claims 62-63 and 65-84 stand rejected under 35 U.S.C. § 103(a) as being obvious over Mao et al. (U.S. Pat. No. 6,459,427) in view of Gerace (U.S. Pat. No. 5,848,396), Stern (U.S. Pat. No. 6,486,892), and Eldering et al. (U.S. Pat. No. 6,486,892). This rejection is respectfully traversed.

For discussion of significant differences between Applicants' claimed invention and the teachings of Gerace, Stern, and Eldering et al., Applicants respectfully direct the Examiner's attention to remarks detailed above with respect to claims 41-61 and 85.

The Examiner relies on Mao et al. to teach simulcast and to teach customizing webcasting content based on a user profile, and admits that Mao does not teach monitoring audience response and characteristics to adjust media content. It should be noted that Mao et al. teaches that the user must choose between either to receive a simulcast or to receive personalized webcasting content, and that users cannot get both (col. 7, lines 5-18). Further, any adjusting of content in according to the teachings of Mao et al. occurs only with respect to web based content, which is “personalized. Stern, Gerace, Eldering et al., and Mao et al. all teach toward personalizing content for different web cast recipients. Therefore, Stern, Gerace, Eldering et al., and Mao et al., individually and/or in combination, teach away from identically modifying all broadcast content and all narrowcast content at a simulcast head end. Stern, Gerace, Eldering et al., and Mao et al. cannot be modified to accomplish this subject matter as doing so would thwart Stern’s, Garace’s, Eldering et al.’s, and Mao et al.’s purposes of individualizing narrowcast content for different content recipients.

Applicants’ claimed invention is directed toward identically modifying all broadcast content and all narrowcast content at a simulcast head end by monitoring response of the narrowcast recipients. For example, independent claim 62, especially as amended, recites, “monitoring at least one aggregate response of the surrogate audience to the media content and audience characteristics of the surrogate audience; and automatically adjusting at a head end at which a simulcast accomplished by said simulcasting originates, in an identical and uniform manner, programming and advertising content elements of all of the narrowcast content for all recipients of the narrowcast content and programming and advertising content elements of all of the

broadcast content for all recipients of the broadcast content in real time based on said monitoring." Independent claims 71 and 78, especially as amended, recite similar subject matter. Thus, Stern, Gerace, Eldering et al., and Mao et al. teach away from subject matter recited in the independent claims. This subject matter is significant.

Accordingly, Applicants respectfully request the Examiner reconsider and withdraw the rejection of independent claims 62, 71, and 78 under 35 U.S.C. § 103(a), along with rejection on these grounds of all claims dependent therefrom.

#### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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